



2013 SENATE BILL 457

1 **AN ACT** *to create* 452.01 (5n), 452.01 (5p) and 452.137 of the statutes; **relating**
2 **to:** cooperation of Wisconsin licensed real estate brokers with out-of-state real
3 estate brokers, salespersons, and time-share salespersons, powers of
4 out-of-state brokers, requiring the exercise of rule-making authority, and
5 providing a penalty.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 452.01 (5n) of the statutes is created to read:
7 452.01 (**5n**) “Out-of-state broker” means a person who is not licensed under
8 this chapter and who is regularly and lawfully engaged in the real estate brokerage
9 business in another state, a territory or possession of the United States, or a foreign
10 country.

SENATE BILL 457**SECTION 2**

1 **SECTION 2.** 452.01 (5p) of the statutes is created to read:

2 452.01 **(5p)** “Out-of-state salesperson” means a person who is not licensed
3 under this chapter and who is employed by an out-of-state broker. “Out-of-state
4 salesperson” includes a time-share salesperson employed by an out-of-state broker.

5 **SECTION 3.** 452.137 of the statutes is created to read:

6 **452.137 Cooperation with out-of-state brokers and salespersons. (1)**

7 DEFINITIONS. In this section:

8 (a) “Cooperative agreement” means the agreement established by the board
9 under sub. (4).

10 (b) “Licensed broker” means a broker who is licensed under this chapter.

11 (c) “Licensed salesperson” means a salesperson who is licensed under this
12 chapter.

13 (d) “Licensed time-share salesperson” means a time-share salesperson who is
14 licensed under this chapter.

15 **(2) OUT-OF-STATE BROKERS.** (a) Except as provided in par. (b), an out-of-state
16 broker may act as a broker in this state only if the out-of-state broker does all of the
17 following:

18 1. Enters into a cooperative agreement with a licensed broker and cooperates
19 with the licensed broker on the listing agreement that is subject to the cooperative
20 agreement. Each cooperative agreement may cover only one listing agreement.

21 2. Submits to the licensed broker evidence that the out-of-state broker is
22 licensed in good standing to engage in real estate brokerage in a jurisdiction other
23 than this state.

24 (b) An out-of-state broker, including an out-of-state broker who is a party to
25 a cooperative agreement, may not do any of the following:

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1 1. Enter into a listing agreement concerning real estate located in this state.

2 2. For commission, money, or other thing of value, promote in this state the sale,
3 exchange, purchase, option, rental, or leasing of real estate located in this state,
4 including by posting signs on the property.

5 (c) An out-of-state broker who is a party to a cooperative agreement with a
6 licensed broker, and any out-of-state salesperson of the out-of-state broker, shall
7 comply with the laws of this state, and the out-of-state broker shall file with the
8 board an irrevocable consent that actions may be commenced against the
9 out-of-state broker in the proper court of any county in this state in which a cause
10 of action arises or the plaintiff resides, by the service of any process or pleading
11 authorized by the laws of this state on the board or any duly authorized employee.
12 The consent shall stipulate and agree that such service is valid and binding as due
13 service upon the out-of-state broker in all courts in this state. The consent shall be
14 duly acknowledged and, if made by a corporation, shall be authenticated by the
15 corporate seal.

16 (d) A licensed broker who is a party to a cooperative agreement with an
17 out-of-state broker, and any licensed salesperson or licensed time-share
18 salesperson of the licensed broker, may not act under the cooperative agreement on
19 behalf of a broker who is not a party to the cooperative agreement.

20 (e) 1. An out-of-state broker who is a party to a cooperative agreement with
21 a licensed broker shall maintain the originals or copies of all documents the
22 out-of-state broker receives, maintains, or generates in connection with any
23 transaction subject to the cooperative agreement, for at least 3 years after the date
24 of closing or completion of the transaction, or, if no closing or completion occurs, 3
25 years after the date on which the parties execute the cooperative agreement.

SENATE BILL 457**SECTION 3**

1 2. An out-of-state broker who is a party to a cooperative agreement with a
2 licensed broker shall deposit with the licensed broker copies of all documents the
3 out-of-state broker is required to maintain under subd. 1., unless the out-of-state
4 broker and licensed broker agree in writing that the out-of-state broker is not
5 required to do so.

6 (f) No person may pay an out-of-state broker a commission, money, or other
7 thing of value for brokerage services unless the out-of-state broker is a party to a
8 cooperative agreement with a licensed broker.

9 (g) Notwithstanding s. 452.01 (2) (bm), no out-of-state broker may, for
10 commission, money, or other thing of value, show a property in this state that is
11 offered exclusively for rent unless that showing is authorized under a cooperative
12 agreement between the out-of-state broker and a licensed broker.

13 **(3) OUT-OF-STATE SALESPERSONS.** An out-of-state salesperson may act as a
14 salesperson or time-share salesperson in this state only if all of the following
15 conditions are met:

16 (a) The out-of-state broker who employs the out-of-state salesperson satisfies
17 all of the applicable requirements under sub. (2).

18 (b) The out-of-state salesperson works under the direct supervision of the
19 out-of-state broker.

20 (c) The out-of-state salesperson submits evidence to the licensed broker that
21 the out-of-state salesperson is licensed in good standing or is otherwise authorized
22 to act as a salesperson or time-share salesperson in a jurisdiction other than this
23 state.

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1 (d) In any transaction subject to the cooperative agreement, the out-of-state
2 salesperson represents only the out-of-state broker who is a party to the cooperative
3 agreement and with whom the out-of-state salesperson is employed.

4 (4) COOPERATIVE AGREEMENT. (a) The board shall, by rule, establish the form
5 and terms of the cooperative agreement.

6 (b) The cooperative agreement shall do at least all of the following:

7 1. Establish the terms of cooperation between the out-of state broker, any
8 out-of-state salesperson, and the licensed broker.

9 2. Establish the terms of the out-of-state broker's compensation.

10 3. Provide that all client funds, as defined in s. 452.13 (1) (a), that the
11 out-of-state broker and licensed broker receive in connection with a transaction
12 subject to the cooperative agreement shall be deposited in a trust account
13 maintained by the licensed broker.

14 (5) PENALTY. (a) Subject to the rules promulgated under s. 440.03 (1), the board
15 may conduct investigations and hold hearings to determine whether a person has
16 violated this section or a rule promulgated under this section.

17 (b) Notwithstanding s. 452.17 (3), any person who violates this section or a rule
18 promulgated under this section may be fined, for each violation, not more than the
19 greater of the following:

20 1. Five thousand dollars.

21 2. For a sales transaction, 1 percent of the purchase price of the property subject
22 to the cooperative agreement.

23 3. For a lease or rental transaction, 1 percent of the total lease or rental value
24 of the property subject to the cooperative agreement.

25 **SECTION 4. Effective date.**

